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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,215	10/31/2003	Tun-Jen Ku	OR0321	2789

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LAW OFFICE OF LIAUH & ASSOC.
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HONOLULU, HI 96816

EXAMINER

MAYO, TARA L

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/699,215

Applicant(s)

KU, TUN-JEN

Examiner

Tara L. Mayo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 4-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species A in the reply filed on 06 August 2004 is acknowledged.

2. Claims 4 through 6 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 06 August 2004.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 through 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benoff (U.S. Patent No. 5,231,720 A) in view of Veilleux et al. (U.S. Patent No. 6,327,725 B1).

Benoff '720, as seen in Figures 1 through 4, shows a pillow (10) comprising:
with regard to claim 1,

an outer member (12) of a hollow construction and made of an artificial sponge (col. 1, lines 62 through 66);

an adjustment member (18) of a hollow construction (i.e., the space between the legs of the U-shaped member) and formed of at least one air duct (19), a plurality of air sacs (the legs and connecting portion of the U-shape) in communication with said air duct, an inflation valve (20) connected to said air duct, and a valve plug (col. 2, lines 25 through 28) engaged with said inflation valve whereby said adjustment member is fitted into a hollow interior of said outer member; and

a support member (24) fitted into a hollow interior of said adjustment member; and
with regard to claim 3,

wherein said support member is made of an artificial sponge (col. 2, lines 37 through 41).

Benoff '720 discloses all of the features of the claimed invention with the exception(s)
of:

with regard to claim 1,

the outer member comprising memory material; and

with regard to claim 2,

the memory member including a zipper.

Veilleux '725, as seen in Figures 1 and 2, shows a pillow (10) comprising a hollow outer member (11) formed of visco-elastic foam (claim 1) for providing comfort to a user (col.

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1, lines 25 through 34), an inflatable insert (14) and further including a zipper (26) for providing closure to the outer member (col. 3, lines 45 through 47).

With regard to claim 1, it would have been obvious to one having ordinary skill in the art of pillows at the time of invention to modify the device shown by Benoff '720 such that the outer member would be made of visco-elastic material as taught to be desirable by Veilleux '725. The motivation would have been to enhance the comfort of a user relative to conventional foam materials.

With regard to claim 2, it would have been obvious to one having ordinary skill in the art of pillows at the time the invention was made to modify the device shown by Benoff '720 such that it would further include a zipper as taught by Veilleux '725 to provide closure to the outer member.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 703-305-3019. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be "JLM".

30 September 2004

A handwritten signature in black ink, appearing to be "Thomas B. Will".

Thomas B. Will
Supervisory Patent Examiner
Group 3600